02:32PM

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 1                    IN THE UNITED STATES DISTRICT COURT

 2                 FOR THE NORTHERN DISTRICT OF CALIFORNIA

 3                           SAN JOSE DIVISION

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    CISCO SYSTEMS, INC.,              )   CV-14-5344-BLF
 5                                    )
                       PLAINTIFF,     )   SAN JOSE, CALIFORNIA
 6                                    )
                 VS.                  )   AUGUST 8, 2016
 7                                    )
    ARISTA NETWORKS, INC.,            )   PAGES 1-38
 8                                    )
                       DEFENDANT.     )
 9                                    )
                                      )
10                                    )

11                       TRANSCRIPT OF PROCEEDINGS
              BEFORE THE HONORABLE BETH LABSON FREEMAN
12                    UNITED STATES DISTRICT JUDGE

13

14        A P P E A R A N C E S:

15        FOR THE PLAINTIFF:   SEAN SANG-CHUL PAK
                               QUINN EMANUEL URQUHART & SULLIVAN, LLP
16                             50 CALIFORNIA, FLOOR 22
                               SAN FRANCISCO, CA 94111
17

18

19        FOR THE DEFENDANT:  DAVID JASON SILBERT
                              KEKER & VAN NEST, L.L.P.
20                            633 BATTERY STREET
                              SAN FRANCISCO, CA 94111
21
                      APPEARANCES CONTINUED ON THE NEXT PAGE
22

23        OFFICIAL COURT REPORTER:  SUMMER FISHER, CSR, CRR
                                    CERTIFICATE NUMBER 13185
24

25           PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY
                TRANSCRIPT PRODUCED WITH COMPUTER
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 1          FOR THE PLAINTIFF:   JORDAN ROSS JAFFE
                                 QUINN EMANUEL ET AL
 2                               555 TWIN DOLPHIN DR, 5TH FL
                                 REDWOOD SHORES, CA 94065
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	1	SAN JOSE, CALIFORNIA AUGUST 8, 2016
	2	P R O C E E D I N G S
	3	(WHEREUPON, COURT CONVENED AND THE FOLLOWING PROCEEDINGS
	4	WERE HELD:)
02:32PM	5	THE COURT: WELCOME BACK. IT SEEMS LIKE I JUST SAW
02:32PM	6	YOU.
02:32PM	7	OKAY. LET'S CALL THE CASE AND I WILL GET YOUR APPEARANCES
02:32PM	8	AND THEN WE WILL GET STARTED
02:32PM	9	THE CLERK: CALLING CASE 14-5344. CISCO SYSTEMS
02:32PM	10	VERSUS ARISTA NETWORKS.
02:32PM	11	COUNSEL, PLEASE COME FORWARD AND STATE YOUR APPEARANCES.
02:32PM	12	MR. PAK: GOOD AFTERNOON, YOUR HONOR.
02:32PM	13	SEAN PAK FROM QUINN EMANUEL ON BEHALF OF CISCO. WITH ME IS
02:32PM	14	MY PARTNER JORDAN JAFFE.
02:32PM	15	THE COURT: GOOD TO SEE YOU.
02:32PM	16	MR. SILBERT: GOOD AFTERNOON, YOUR HONOR.
02:32PM	17	DAVID SILBERT FROM KEKER & VAN NEST ON BEHALF OF ARISTA.
02:32PM	18	THE COURT: HELLO, MR. SILBERT.
02:32PM	19	OKAY. WELL, IT SEEMS LIKE 2 HOURS 45 MINUTES WASN'T ENOUGH
02:32PM	20	LAST WEEK, AND SO WE ARE GOING TO DO SOME MORE. AND I'M REALLY
02:32PM	21	LOOKING AT ABOUT 20 MINUTES EACH. THIS WAS ONE ARGUMENT IN A
02:32PM	22	LONGER BRIEF. SO I HOPE THAT DOESN'T THROW YOU OFF.
02:32PM	23	I HAVE THE SLIDE PRESENTATIONS -- AND PLEASE BE SEATED.
02:32PM	24	THE SLIDE PRESENTATIONS YOU GAVE ME LAST WEEK, I DON'T KNOW
02:32PM	25	WHETHER YOU REWORKED THEM OR IF YOU ARE GOING TO GO RIGHT BACK

02:32PM 1   INTO THOSE.

02:32PM 2   MR. PAK: YOUR HONOR, WE ACTUALLY DID NOT INCLUDE THE

02:32PM 3   PATENT PRESENTATIONS.

02:32PM 4   THE COURT: OKAY. THAT'S FINE. AND OF COURSE I LEFT

02:32PM 5   YOUR EXPERT'S REPORT ON MY DESK.

02:32PM 6   MR. PAK: WE CAN PASS UP THE PRESENTATIONS IF YOU

02:32PM 7   WOULD LIKE.

02:32PM 8   THE COURT: GOOD. LET ME JUST MOVE MY SCREEN.

02:32PM 9   OKAY. AND THE COURTROOM IS OPEN, IS THAT ACCEPTABLE?

02:32PM 10   MR. PAK: YES, YOUR HONOR.

02:32PM 11   WE AGREED I WOULD NOT GO INTO DETAILED SOURCE CODE.

02:32PM 12   THE COURT: OKAY.

02:32PM 13   ALL RIGHT. MR. SILBERT, THIS IS YOUR MOTION, SO YOU GET TO

02:32PM 14   GO FIRST.

02:32PM 15   MR. SILBERT: THANK YOU, YOUR HONOR.

02:33PM 16   GOOD AFTERNOON. YOUR HONOR, I HOPE THAT THIS WILL BE

02:33PM 17   SIMPLE AND I WILL KEEP IT SHORT. THIS REALLY IS ABOUT A SINGLE

02:33PM 18   CLAIM LIMITATION WHICH THE COURT CONSTRUED IN A WAY THAT CISCO

02:33PM 19   ASKED THE COURT NOT TO DO, AND THE RESULT IS THAT ARISTA SIMPLY

02:33PM 20   DOES NOT INFRINGE.

02:33PM 21   AND THIS IS THE LIMITATION IN QUESTION, IT'S WHAT WE REFER

02:33PM 22   AS THE COMMAND PARSE TREE LIMITATION. IT'S THE LONGER PHRASE

02:33PM 23   THAT'S HIGHLIGHTED HERE. THE COMMAND PARSE TREE HAVING

02:33PM 24   ELEMENTS EACH SPECIFYING AT LEAST ONE CORRESPONDING GENERIC

02:33PM 25   COMMAND COMPONENT AND A CORRESPONDING AT LEAST ONE COMMAND

02:33PM 1   ACTION VALUE.

02:33PM 2   AND JUST TO REMIND THE COURT ABOUT THE TERMINOLOGY AND THE

02:33PM 3   CONCEPTS HERE, WE HAVE IN THIS CLAIM LIMITATION, WHICH BY THE

02:33PM 4   WAY I'M SHOWING IN CLAIM 1, THIS LIMITATION APPEARS IN EVERY

02:33PM 5   SINGLE ASSERTED CLAIM, EVERY ONE.

02:34PM 6   THE COURT: YES.

02:34PM 7   MR. SILBERT: WE HAVE THE TERMS ELEMENTS, THE PARSE

02:34PM 8   TREE HAS ELEMENTS, AND THEN THE ELEMENTS SPECIFY A GENERIC

02:34PM 9   COMMAND COMPONENT, AT LEAST ONE, AND AT LEAST ONE COMMAND --

02:34PM 10   CORRESPONDING COMMAND ACTION VALUE.

02:34PM 11   SO JUST AS A LITTLE REFRESHER, IT'S BEEN A WHILE, I KNOW,

02:34PM 12   SINCE THE MARKMAN HEARING AND YOUR HONOR'S ORDER. WHAT'S SHOWN

02:34PM 13   ON THIS SLIDE IS FIGURE 2 OF THE PATENT ON THE LEFT. IT SHOWS

02:34PM 14   A TREE, WHAT THE PATENT CALLS A COMMAND PARSE TREE. AND THESE

02:34PM 15   ITEMS, THESE RECTANGLES IN ORANGE, ARE THE ELEMENTS OF THE

02:34PM 16   TREE. THEY ARE THE NODES OF THE TREE.

02:34PM 17   SO EACH OF THESE 24A, 24B, 24C, ET CETERA, IS AN ELEMENT.

02:34PM 18   WITHIN THE ELEMENTS HERE IN FIGURE 2, WE HAVE WHAT THE

02:35PM 19   PATENT REFERS TO AS TOKEN COMMAND KEY PAIRS. AND IN MOST OF

02:35PM 20   THESE ELEMENTS THERE ARE SEVERAL OF THEM, IF WE LOOK AT ELEMENT

02:35PM 21   24A, THERE'S THREE OF THEM. AND YOU SEE THE ABBREVIATIONS

02:35PM 22   HERE, T IS FOR TOKEN AND CK IS FOR COMMAND KEY. SO FOR EACH

02:35PM 23   TOKEN, THERE'S A COMMAND KEY.

02:35PM 24   NOW, THE TOKENS ARE WHAT THE PATENT ALSO CALLS, AND IN

02:35PM 25   PARTICULAR IN THE CLAIM LANGUAGE WE ARE FOCUSSING ON, CALLS

02:35PM 1   GENERIC COMMAND COMPONENTS.

02:35PM 2   AND ALL IT REALLY IS, IS A WORD. IT'S A WORD IN THE INPUT

02:35PM 3   COMMAND THAT THE USER ENTERS.

02:35PM 4   SO FOR EXAMPLE HERE WE ARE SHOWING THE WORD WATCH, AND YOU

02:35PM 5   SEE ON THE TOP LEFT OF ELEMENT 24-A, THERE, THERE'S THE TOKEN

02:35PM 6   EIGHT, THAT CORRESPONDS TO WATCH. IT HAS THE COMMAND KEY ONE.

02:35PM 7   THEN TOKEN THREE, WHICH CORRESPONDS TO THE WORD "GET" IF

02:36PM 8   YOU LOOK AT THE TABLE UP ABOVE, HAS A DIFFERENT COMMAND KEY.

02:36PM 9   EACH TOKEN HAS ITS OWN COMMAND KEYS. THE TOKENS -- THE WORDS

02:36PM 10 ARE GENERIC COMMAND COMPONENTS. THE COMMAND KEYS ARE COMMAND

02:36PM 11 ACTION VALUES. AND THE COURT CONSTRUED THAT TERM TO MEAN A

02:36PM 12 VALUE THAT IDENTIFIES A PRESCRIBED COMMAND.

02:36PM 13   SO THE USER ENTERS A GENERIC COMMAND, IT CONSISTS OF WORDS

02:36PM 14 WHICH ARE DESCRIBED BY THESE TOKENS HERE. EACH TOKEN HAS A

02:36PM 15 COMMAND ACTION VALUE, THAT IDENTIFIES A PRESCRIBED COMMAND THAT

02:36PM 16 GETS SENT ON DOWN TO A PROGRAM IN THE SYSTEM.

02:36PM 17   SO WITH THAT BACKGROUND AND REFRESHER, WHAT WAS THE ISSUE

02:36PM 18 WITH THE CLAIM TERM THAT WE ARE FOCUSSING ON HERE, THE COMMAND

02:36PM 19 PARSE TREE TERM.

02:36PM 20   WELL, WHAT'S ON THE SCREEN IS THE COURT SUMMARIZING THAT

02:36PM 21 ISSUE AT THE MARKMAN HEARING, AFTER LISTENING TO MYSELF AND

02:36PM 22 MR. PAK ARGUE ABOUT IT. AND WHAT THE COURT SAID IS, SO THE

02:37PM 23 QUESTION REALLY IS, DOES THE COMMAND ACTION VALUE OR THE

02:37PM 24 COMMAND KEY, THOSE ARE ESSENTIALLY SYNONYMS, A COMMAND KEY IS A

02:37PM 25 COMMAND ACTION VALUE, DOES IT CORRESPOND TO THE ELEMENT OR DOES

02:37PM 1   IT CORRESPOND TO THE TOKEN.

02:37PM 2   AND JUST TO ILLUSTRATE WHAT THAT LOOKS LIKE, WE ARE NOW,

02:37PM 3   THIS IS A SLIGHTLY MODIFIED VERSION OF FIGURE 2 OF THE PATENT,

02:37PM 4   HERE WHAT'S SHOWN IS A COMMAND KEY OR COMMAND ACTION VALUE

02:37PM 5   CORRESPONDING TO EACH TOKEN. FOR TOKEN EIGHT THERE'S COMMAND

02:37PM 6   KEY ONE, FOR TOKEN THREE THERE'S COMMAND KEY SIX. FOR TOKEN

02:37PM 7   FIVE THERE'S COMMAND KEY TEN. SO THIS WOULD BE COMMAND ACTION

02:37PM 8   VALUE CORRESPONDING TO EACH TOKEN, AT LEAST ONE FOR EACH TOKEN.

02:37PM 9   THE ALTERNATIVE, WHICH CISCO WAS ARGUING FOR, AND HERE

02:37PM 10   WE'VE MODIFIED FIGURE 2, I SHOULD POINT OUT WE HAVE GRAYED OUT

02:37PM 11   THE CK'S FOR COMMAND KEYS FOR TOKEN 8 AND 3. HERE YOU HAVE A

02:38PM 12   COMMAND KEY OR COMMAND ACTION VALUE THAT CORRESPONDS TO THE

02:38PM 13   ENTIRE ELEMENT. THERE'S JUST ONE FOR THE ENTIRE ELEMENT.

02:38PM 14   AND SO THE QUESTION WAS, AS THE COURT PUT IT, DOES THE

02:38PM 15   COMMAND ACTION VALUE OR COMMAND KEY CORRESPOND TO THE ELEMENT

02:38PM 16   OR DOES IT CORRESPOND TO THE TOKEN.

02:38PM 17   WELL, THE COURT DECIDED THAT QUESTION AND DECIDED CORRECTLY

02:38PM 18   THAT THE COMMAND ACTION VALUE CORRESPONDS TO THE TOKEN, THAT IS

02:38PM 19   EACH GENERIC COMMAND COMPONENT, EACH WORD.

02:38PM 20   AND WHAT'S SHOWN ON THE SCREEN HERE IS AN EXCERPT FROM

02:38PM 21   YOUR HONOR'S MARKMAN RULING. CONSTRUING THE TERM IN QUESTION

02:38PM 22   WHERE YOUR HONOR SAID, CONSTRUED IT TO MEAN THE COMMAND PARSE

02:38PM 23   TREE HAVING ELEMENTS SUCH THAT EACH ELEMENT SPECIFIES AT LEAST

02:38PM 24   ONE COMMAND ACTION VALUE FOR EACH GENERIC COMMAND COMPONENT.

02:38PM 25   IN OTHER WORDS, FOR EACH TOKEN, EACH WORD.

02:38PM 1   AND WE HAVE ANOTHER ILLUSTRATION OF WHAT THAT LOOKS LIKE

02:39PM 2   HERE. HERE WE ARE USING NOT A FIGURE FROM THE PATENT, BUT AN

02:39PM 3   EXEMPLARY COMMAND. THIS IS A COMMAND WITHIN ARISTA'S SYSTEM

02:39PM 4   THAT CISCO'S EXPERT ACCUSES OF BEING AN INFRINGING GENERIC

02:39PM 5   COMMAND. SO WE ARE USING THIS COMMAND AS AN EXAMPLE.

02:39PM 6   THE COMMAND IS SHOW OPEN FLOW FLOWS. THAT'S WHAT A USER

02:39PM 7   WOULD TYPE. AND WHAT WE ARE SHOWING HERE IS THAT EACH TOKEN,

02:39PM 8   EACH GENERIC COMMAND COMPONENT WITHIN THAT COMMAND HAS ITS OWN

02:39PM 9   COMMAND KEY. COMMAND KEY ONE, COMMAND KEY TWO AND COMMAND KEY

02:39PM 10   THREE.

02:39PM 11   THAT'S THE WAY THE COURT CONSTRUED THE CLAIM. THAT'S ALSO,

02:39PM 12   AS WE LOOKED AT ALREADY, THAT'S WHAT THE PATENT DEPICTS. TOKEN

02:39PM 13   EIGHT, WHICH IS THE COMMAND WORD WATCH, HAS COMMAND KEY ONE IN

02:39PM 14   FIGURE 2 OF THE PATENT.

02:39PM 15   TOKEN THREE, WHICH CORRESPONDS TO THE COMMAND WORD GET,

02:39PM 16   CORRESPONDS TO COMMAND KEY SIX, AND TOKEN FIVE WHICH IS THE

02:40PM 17   COMMAND WORD SET CORRESPONDS TO COMMAND KEY TEN.

02:40PM 18   SO EACH TOKEN OF THE PATENT HAS ITS OWN COMMAND KEY.

02:40PM 19   NOW IT'S ALSO, AND I KNOW THIS WAS NOT SOMETHING YOUR HONOR

02:40PM 20   RELIED ON IN YOUR HONOR'S MARKMAN DECISION, BUT IT'S WORTH

02:40PM 21   NOTING THAT THIS STRUCTURE IS ALSO WHAT CISCO TOLD THE PTO THAT

02:40PM 22   THE PATENT REQUIRES IN DISTINGUISHING PRIOR ART.

02:40PM 23   SO WHAT'S ON THE SCREEN HERE IS CISCO'S ARGUMENT

02:40PM 24   DISTINGUISHING THE MARTINEZ-GUERRA REFERENCE THAT WAS THE

02:40PM 25   SUBJECT OF THE IPR PETITION. WITHOUT GOING INTO ALL THE

02:40PM 1   DETAILS, MARTINEZ-GUERRA, VERY SIMILAR TO THE PATENT WHEN YOU

02:40PM 2   READ IT, IT'S PRIOR ART, IT SAYS, IT'S REALLY A PAIN -- I'M

02:40PM 3   OBVIOUSLY PARAPHRASING, BUT IT'S REALLY A PAIN AND THERE'S ALL

02:40PM 4   THESE DIFFERENT TOOLS AND THEY'VE GOT ALL THEIR OWN LANGUAGES

02:40PM 5   AND YOU'VE GOT TO LEARN THEM ALL, WE OUGHT TO DO IS LET USERS

02:41PM 6   ENTER COMMANDS IN WHAT IT CALLS A HIGH-LEVEL USER LANGUAGE.

02:41PM 7   AND THEN IT HAS SOMETHING CALLED THE TRANSLATION FUNCTION THAT

02:41PM 8   TRANSLATES THE HIGH LEVEL USER COMMAND INTO THE COMMAND FOR A

02:41PM 9   SPECIFIC PROGRAM THAT'S GOING TO EXECUTE THAT FUNCTION.

02:41PM 10   VERY CLOSE TO THE PATENT. WHAT CISCO TOLD THE PTO AND WHAT

02:41PM 11   THE PTO ACCEPTED WAS THE FOLLOWING:

02:41PM 12   ACCORDING TO MARTINEZ-GUERRA, A TRANSLATION FUNCTION,

02:41PM 13   THAT'S ESSENTIALLY MARTINEZ-GUERRA'S WORD FOR COMMAND ACTION

02:41PM 14   VALUE, A TRANSLATION FUNCTION ONLY APPLIES TO A COMPLETE VALID

02:41PM 15   SEQUENCE OF TOKENS.

02:41PM 16   THEN THE CITATION. THEN THUS, IN CONTRAST TO THE '526

02:41PM 17   PATENT, EACH TOKEN INGESTED BY MARTINEZ-GUERRA'S PARSER, DOES

02:41PM 18   NOT HAVE A CORRESPONDING TRANSLATION FUNCTION.

02:41PM 19   IT GOES ON AND SAYS, MARTINEZ-GUERRA'S TRANSLATION

02:41PM 20   FUNCTIONS ARE ONLY APPLIED ONCE MARTINEZ-GUERRA'S SYSTEM

02:41PM 21   DETERMINES WHETHER IT HAS RECEIVED THE ENTIRETY OF A COMPLETE

02:42PM 22   VALID SEQUENCE OF TOKENS.

02:42PM 23   THAT'S WHAT THEY TOLD THE PTO IS THE REASON THAT

02:42PM 24   MARTINEZ-GUERRA DOES NOT PRACTICE THE PATENT OR RENDER THE

02:42PM 25   PATENT OBVIOUS, BECAUSE EACH TOKEN DOESN'T HAVE ITS OWN

02:42PM 1   TRANSLATION FUNCTION.

02:42PM 2   AND THEY ALSO TOLD THE PTO WHAT THE CONSEQUENCE WAS OF

02:42PM 3   HAVING THAT DIFFERENT STRUCTURE. AT THE TOP OF THIS PARAGRAPH

02:42PM 4   THEY TALK ABOUT THE FACT THAT OTHER SYSTEMS LIKE THE ONE

02:42PM 5   DISCLOSED BY MARTINEZ-GUERRA AIMED TO SOLVE A SIMILAR PROBLEM,

02:42PM 6   BUT THEY DID IT USING A DIFFERENT TECHNIQUE WHICH DIDN'T USE A

02:42PM 7   COMMAND PARSE TREE HAVING ELEMENTS WHERE EACH ELEMENT SPECIFIED

02:42PM 8   A GENERIC COMMAND COMPONENT AND AT LEAST ONE CORRESPONDING

02:42PM 9   COMMAND ACTION VALUE.

02:42PM 10   AND THEN THEY SAY, AS A RESULT, SYSTEMS SUCH AS

02:42PM 11   MARTINEZ-GUERRA COULD NOT EXECUTE A GENERIC COMMAND FOR A

02:42PM 12   PARTIALLY VALID INPUT. A NOVEL ASPECT ACCOMPLISHED BY THE '526

02:42PM 13   PATENT BECAUSE OF THE UNIQUE COMMAND PARSE TREE AND IT'S

02:42PM 14   STRUCTURE.

02:42PM 15   AND WHAT THEY ARE GETTING AT THERE IS THE FOLLOWING, AND

02:43PM 16   IT'S DESCRIBED IN THE PATENT AS WELL, THE ABILITY OF THE

02:43PM 17   PATENTED SYSTEM TO EXECUTE A COMMAND THAT'S ONLY PARTIALLY

02:43PM 18   VALID.

02:43PM 19   SO WHAT WE ARE SHOWING HERE IS USER INPUTS A COMMAND THAT'S

02:43PM 20   ONLY PARTIALLY VALID, THE FIRST TWO WORDS ARE VALID, SHOW OPEN

02:43PM 21   FLOW. BUT THE USER HAS INCORRECTLY PUT THE WORD FLEWS INSTEAD

02:43PM 22   OF FLOWS.

02:43PM 23   WE MIGHT BE ABLE TO GUESS WHAT THE USER MEANS, BUT

02:43PM 24   COMPUTERS AREN'T GOOD AT THAT, THEY DON'T GUESS, THEY DON'T

02:43PM 25   KNOW WHAT THE USER MEANS, THEY JUST KNOW IT'S NOT A MATCH.

02:43PM   1   SO WHEN YOU HAVE THIS STRUCTURE THAT'S DESCRIBED IN THE

02:43PM   2   PATENT AND THAT'S DESCRIBED IN YOUR HONOR'S CLAIM CONSTRUCTION

02:43PM   3   WHERE EACH TOKEN, EACH GENERIC COMMAND COMPONENT HAS ITS OWN

02:43PM   4   COMMAND KEY, A COMMAND COULD STILL BE EXECUTED WITHOUT REACHING

02:43PM   5   THE END OF A COMPLETE VALID COMMAND. BECAUSE EVEN THOUGH THEY

02:43PM   6   ONLY SHOW AN OPEN FLOW, YOU HAVE COMMAND KEYS THERE THAT

02:43PM   7   REQUEST THEN BE EXECUTED.

02:43PM   8   SO THAT'S WHAT'S REQUIRED. WHAT'S REQUIRED BY THE PATENT,

02:43PM   9   BY THE COURT'S CLAIM CONSTRUCTION, IS THAT EACH GENERIC COMMAND

02:43PM   10 COMPONENT, EACH WORD IN THE COMMAND HAS TO HAVE ITS OWN COMMAND

02:44PM   11 KEY, IT'S OWN COMMAND ACTION VALUE. THE QUESTION IS DOES

02:44PM   12 ARISTA'S ACCUSED SYSTEM HAVE THAT STRUCTURE OR NOT? THE ANSWER

02:44PM   13 IS IT DOES NOT.

02:44PM   14   AND THE EASIEST WAY TO TELL THAT IS TO LOOK AT THE

02:44PM   15 TESTIMONY OF CISCO'S EXPERT, THIS IS CISCO'S INFRINGEMENT

02:44PM   16 EXPERT, DR. KEVIN JEFFAY, AND HE WAS ASKED -- IN THIS SEQUENCE

02:44PM   17 OF TESTIMONY HE WAS IS ASKED ABOUT THIS EXEMPLARY COMMAND THAT

02:44PM   18 WE HAVE BEEN TALKING ABOUT, SHOW OPENFLOW FLOWS.

02:44PM   19   AND HE WAS ASKED IF THERE'S A TREE ELEMENT FOR THAT

02:44PM   20 COMMAND, HOW MANY GENERIC COMMAND COMPONENTS DOES IT HAVE. AND

02:44PM   21 HE SAID IT HAS THREE.

02:44PM   22   IN OTHER WORDS, EACH WORD, SHOW, OCCUPY, FLOW AND FLOWS IS

02:44PM   23 EACH A GENERIC COMMAND COMPONENTS.

02:44PM   24   THEN HE WAS ASKED, DOES EACH ONE OF THOSE GENERIC COMMAND

02:44PM   25 COMPONENTS HAVE AN ASSOCIATED COMMAND ACTION VALUE?

02:44PM 1   HIS ANSWER IS, MY ANALYSIS IS OF THE ELEMENTS IN THE PARSE

02:44PM 2   TREE WITH REGARD TO A COMMAND ACTION VALUE. AND WHAT I THINK

02:44PM 3   WHAT I TESTIFIED IS THE ELEMENT IN THE PARSE TREE HAS A COMMAND

02:45PM 4   ACTION VALUE.

02:45PM 5   SO HE'S ARGUING UNDER THE CONSTRUCTION THAT CISCO PROPOSED

02:45PM 6   BUT DIDN'T GET, THAT THERE'S A COMMAND ACTION VALUE ASSOCIATED

02:45PM 7   WITH THE ELEMENT BUT NOT ASSOCIATED WITH THE GENERIC COMMAND

02:45PM 8   COMPONENTS; IN OTHER WORDS, THE TOKENS, THE WORDS.

02:45PM 9   HE GOES ON. "I MEAN, THE COMMAND ACTION VALUE IS

02:45PM 10   ASSOCIATED WITH THE ELEMENT, AND IN PARTICULAR, WITH AT LEAST

02:45PM 11   ONE GENERIC COMMAND COMPONENT WHICH IN THIS CASE I WOULD SAY IS

02:45PM 12   BEST DESCRIBED BY FLOWS."

02:45PM 13   FLOWS IS, IF YOUR HONOR REMEMBERS, IS THE LAST WORD IN THE

02:45PM 14   COMMAND. SO HE'S SAYING THERE'S ONE FOR THE ENTIRE ELEMENT,

02:45PM 15   SHOW OPENFLOW FLOWS. AND I WOULD SAY THAT IT'S BEST ASSOCIATED

02:45PM 16   WITH THE LAST WORD IN THE COMMAND, FLOWS. BUT IT'S REALLY FOR

02:45PM 17   THE WHOLE ELEMENT.

02:45PM 18   HE'S ASKED THE FOLLOWING QUESTION:

02:45PM 19   "SO YOU'RE NOT OPINING THAT THE COMMAND ACTION VALUE

02:45PM 20   ASSOCIATED WITH THE SHOW OPENFLOW FLOWS COMMAND IS SPECIFICALLY

02:45PM 21   ASSOCIATED WITH THE SHOW TOKEN?"

02:46PM 22   AND HE ANSWERS, "IF I UNDERSTAND YOUR QUESTION, I THINK THE

02:46PM 23   ANSWER IS YES."

02:46PM 24   SO THIS IS THE CIRCUMSTANCE THAT MR. JEFFAY IS SAYING

02:46PM 25   EXISTS. SO WHEN YOU GET TO THE END OF A COMPLETE COMMAND

02:46PM 1   THAT'S DEFINED BY ONE ELEMENT, THEN YOU GET TO A COMMAND, WHAT

02:46PM 2   HE CALLS A COMMAND ACTION VALUE. A VALUE FUNCTION THAT CAN BE

02:46PM 3   INVOKED. HE'S NOT SAYING THAT THERE'S A COMMAND ACTION VALUE

02:46PM 4   FOR EACH ONE OF THESE OTHER TOKENS IN THE COMMAND, WHICH IS

02:46PM 5   WHAT YOUR HONOR REQUIRED IN YOUR HONOR'S CLAIM CONSTRUCTION AND

02:46PM 6   WHAT CISCO TOLD THE PTO THAT THE PATENT REQUIRES. NOT WHAT

02:46PM 7   THEY ARGUED FOR ON CLAIM CONSTRUCTION HERE, BUT WHAT THEY TOLD

02:46PM 8   THE PTO WAS REQUIRED.

02:46PM 9   AND ONE WAY, ONE FURTHER PROOF THAT THE SITUATION IN THE

02:46PM 10   ARISTA ACCUSED PRODUCT IS NOT WHAT'S CLAIMED IN THE PATENT IS

02:46PM 11   THAT JUST LIKE THE MARTINEZ-GUERRA PRIOR ART REFERENCE THAT

02:46PM 12   CISCO DISTINGUISHED, THE ARISTA PRODUCT CANNOT EXECUTE

02:46PM 13   PARTIALLY VALID COMMANDS. YOU HAVE TO GET TO THE END OF A

02:46PM 14   COMPLETE VALID COMMAND BEFORE YOU GET TO SOMETHING THAT CISCO

02:47PM 15   CALLS A COMMAND ACTION VALUE AND INVOKES ANOTHER COMMAND.

02:47PM 16   AND THIS IS UNDISPUTED AS WELL, DR. JEFFAY WAS ASKED IF THE

02:47PM 17   USER JUST TYPED THE WORD "SHOW" AND HIT ENTER, DO YOU KNOW

02:47PM 18   WHETHER A PRESCRIBED COMMAND WOULD GET EXECUTED? HE CLARIFIES

02:47PM 19   ALL THE USER DOES IS TYPE SHOW AND PRESS ENTER. THEN HE SAYS,

02:47PM 20   I DON'T BELIEVE A PRESCRIBED COMMAND WOULD BE EXECUTED.

02:47PM 21   THAT'S ALSO SUPPORTED BY OTHER EVIDENCE IN THE RECORD AND

02:47PM 22   IT'S SIMPLY A FACT.

02:47PM 23   ARISTA, JUST LIKE THE ART THAT CISCO DISTINGUISHED, TO THE

02:47PM 24   EXTENT IT DOES ANYTHING LIKE THE PATENT, IT HAS WHAT CISCO

02:47PM 25   CALLS A COMMAND ACTION VALUE THAT GETS INVOKED ONLY AT THE END

02:47PM 1   OF A COMPLETE VALID COMMAND, NOT ONE FOR EACH INDIVIDUAL WORD.

02:47PM 2   AND UNDER YOUR HONOR'S CLAIM CONSTRUCTION, THAT'S NOT ENOUGH.

02:47PM 3   THE COURT: NICE JOB.

02:47PM 4   MR. SILBERT: THANK YOU.

02:47PM 5   I HAVE BEEN WATCHING MY WATCH.

02:47PM 6   THE COURT: I APPRECIATE THAT.

02:47PM 7   MR. SILBERT: THANK YOU.

02:47PM 8   THE COURT: WHAT I REALLY APPRECIATE IS THIS IS FULLY

02:48PM 9   REFLECTED IN YOUR BRIEF AS WELL.

02:48PM 10   MR. PAK?

02:48PM 11   MR. PAK: GOOD AFTERNOON, YOUR HONOR.

02:48PM 12   THANK YOU VERY MUCH FOR CONTINUING THE HEARING TO HAVE AN

02:48PM 13   OPPORTUNITY TO PRESENT ON THE PATENT, SO I VERY MUCH APPRECIATE

02:48PM 14   IT.

02:48PM 15   SO I THINK I'M GOING TO TRACK MUCH OF WHAT WE JUST HEARD

02:48PM 16   FROM MR. SILBERT AND PUT CONTEXT WITH THE ABBREVIATED BRIEFING

02:48PM 17   TO GET ALL THE COMPLEXITY OF THE DIFFERENT PIECES GOING ON.

02:48PM 18   THIS IS A VERY COMPLEX TECHNOLOGY IN TERMS OF THE PARSING

02:48PM 19   THAT'S GOING ON.

02:48PM 20   SO WITH THAT, LET ME WALK YOU THROUGH THE SLIDES. THIS IS

02:48PM 21   SLIDE TWO.

02:48PM 22   FIRST OF ALL, IT'S VERY IMPORTANT TO UNDERSTAND YOUR HONOR

02:48PM 23   THAT WE ARE NOT HERE WITH RESPECT TO THE ARGUMENT TODAY, ABOUT

02:48PM 24   YOUR HONOR'S CLAIM CONSTRUCTION. WHAT WE ARE REALLY HERE TO DO

02:48PM 25   IS TO SHOW YOU THE PROOF OF OUR OWN EXPERT'S REPORT THAT SHOWS

02:48PM 1   INFRINGEMENT UNDER YOUR HONOR'S CLAIM CONSTRUCTION,

02:48PM 2   SPECIFICALLY WITH RESPECT TO THE LANGUAGE THAT EACH GENERIC

02:49PM 3   COMMAND COMPONENT HAS ONE OR MORE COMMAND ACTION VALUES.

02:49PM 4   AND MR. SILBERT TALKED ABOUT WHAT HAPPENED AT THE HEARING.

02:49PM 5   I THINK WHAT'S ALSO IMPORTANT TO UNDERSTAND, AND THIS WILL BE

02:49PM 6   VERY IMPORTANT TO OUR PRESENTATION TODAY, IS THAT YOUR HONOR

02:49PM 7   SPECIFICALLY REJECTED THIS REQUIREMENT THAT THERE MUST BE A

02:49PM 8   UNIQUE AND ONE-TO-ONE CORRESPONDENCE BETWEEN A GENERIC COMMAND

02:49PM 9   COMPONENT AND A COMMAND ACTION VALUE.

02:49PM 10   SO THE REAL DISPUTE THAT HAPPENED AT THE MARKMAN HEARING,

02:49PM 11   IF YOUR HONOR RECALLS, IS THEY WERE ARGUING THAT EVERY COMMAND

02:49PM 12   COMPONENT HAS TO HAVE ONLY ONE COMMAND ACTION VALUE. AND WE

02:49PM 13   WENT THROUGH THAT AND YOUR HONOR CORRECTLY FOUND THAT FIGURE 2

02:49PM 14   OF THE EMBODIMENT IS NOT A LIMITATION WITH RESPECT TO THAT

02:49PM 15   CONCEPT.

02:49PM 16   SO YOUR HONOR'S CONSTRUCTION ALLOWS FOR MULTIPLE COMMAND

02:49PM 17   ACTION VALUES TO BE ASSOCIATED WITH EACH TOKEN OR GENERIC

02:49PM 18   COMMAND.

02:49PM 19   NOW THIS IS AN EXCERPT FROM DR. JEFFAY'S REPORT WHERE HE

02:49PM 20   MAKES IT VERY CLEAR THAT HE IS OPINING ON INFRINGEMENT UNDER

02:49PM 21   SOMETHING CALLED CONTEXT STATE. AND WE WILL TALK A LOT MORE

02:50PM 22   ABOUT THAT. BUT THE IMPORTANT THING HERE IS THERE'S AN ENTIRE

02:50PM 23   INFRINGEMENT THEORY THAT IS BASED ON A FUNCTIONALITY CALLED

02:50PM 24   CONTEXT STATE THAT EXISTS IN ARISTA'S SOFTWARE.

02:50PM 25   ARISTA DID NOT MOVE ON THAT FUNCTIONALITY WITH RESPECT TO

02:50PM 1   THE OPENING BRIEF, AND FOR A GOOD REASON.

02:50PM 2   IF YOU UNDERSTAND WHAT THIS FUNCTIONALITY DOES, AS

02:50PM 3   DR. JEFFAY EXPLAINS, IT SATISFIES YOUR HONOR'S COURT CLAIM

02:50PM 4   CONSTRUCTION, SPECIFICALLY WITHIN EACH OF THESE CONTEXT

02:50PM 5   VARIABLE VALUES, THERE WILL BE A CORRESPONDENCE BETWEEN A

02:50PM 6   GENERIC COMMAND COMPONENT AND ONE OR MORE COMMAND ACTION

02:50PM 7   VALUES. THE CONTEXT STATE IS THE THEORY THAT THEY DIDN'T MOVE

02:50PM 8   ON THAT STILL EXISTS TODAY, THAT SATISFIES THE COURT'S

02:50PM 9   CONSTRUCTION.

02:50PM 10   SPECIFICALLY, ON SLIDE 3, THIS IS IMPORTANT, YOUR HONOR, HE

02:50PM 11   ADDRESSED YOUR HONOR'S CONSTRUCTION, AND HE SAID, I UNDERSTAND

02:50PM 12   THAT DURING THE MARKMAN HEARING ARISTA EXPLAINED THAT THEY

02:50PM 13   INTERPRET THE PHRASE TO REQUIRE THAT EACH GENERIC COMMAND

02:50PM 14   COMPONENT MUST HAVE A CORRESPONDING AT LEAST ONE COMMAND ACTION

02:51PM 15   VALUE.

02:51PM 16   THAT'S EXACTLY THE POSITION YOU HEARD FROM MR. SILBERT.

02:51PM 17   DR. JEFFAY IS CLEARLY ON THE RECORD HERE IN TERMS OF THE

02:51PM 18   EXPERT'S REPORT. EVEN UNDER THIS INTERPRETATION, THE ACCUSED

02:51PM 19   PRODUCTS STILL INFRINGE.

02:51PM 20   HOW DOES IT INFRINGE UNDER THAT CONSTRUCTION? AND THIS IS

02:51PM 21   SLIDE 4. THIS IS PART OF HIS EXPERT REPORT THAT WAS NOT

02:51PM 22   ADDRESSED DURING THE OPENING BRIEF AND NOT REALLY ADDRESSED IN

02:51PM 23   THE REPLY BRIEF.

02:51PM 24   WHAT HAPPENS IS THE COMMAND IS BEING PARSED IN THE ARISTA

02:51PM 25   SYSTEMS, SO YOU ARE RECEIVING ONE TOKEN AT A TIME. EVERY STEP

02:51PM   1   OF THE WAY, EVERY TIME A TOKEN IS BEING PARSED, THE CONTEXT

02:51PM   2   STATE VARIABLE IS CHANGING.

02:51PM   3   SO THERE'S A NEW SET OF VALUES THAT ARE BEING ASSOCIATED

02:51PM   4   WITH EACH TOKEN THAT IS BEING PROCESSED. VERY IMPORTANT

02:51PM   5   FUNCTIONALITY, THAT IS NOT ADDRESSED BY ARISTA, AND AS YOU WILL

02:51PM   6   SEE, ALL OF THE DEPOSITION TESTIMONY THAT YOU HEARD ABOUT FROM

02:51PM   7   DR. JEFFAY WAS NOT DIRECTED TO THIS FUNCTIONALITY AT ALL.

02:51PM   8   THIS IS A FUNCTIONALITY THAT TAKES PLACE AS THE COMMAND IS

02:52PM   9   BEING PARSED, NOT WHAT HAPPENS WHEN THE COMMAND HAS BEEN FULLY

02:52PM   10   PARSED AT THE END.

02:52PM   11   SO LET ME SEE IF I CAN ILLUSTRATE THIS.

02:52PM   12   THE COURT: SO YOU ARE SAYING THAT INFORMS THE

02:52PM   13   COMMAND ACTION VALUE ASSIGNED AT THE LAST STEP.

02:52PM   14   MR. PAK: ABSOLUTELY.

02:52PM   15   THE COURT: SO IT IS EQUIVALENT TO THE COMMAND ACTION

02:52PM   16   VALUE BEING ASSIGNED TO EACH.

02:52PM   17   MR. PAK: ABSOLUTELY.

02:52PM   18   AND YOU WILL SEE THAT, YOUR HONOR, BECAUSE THERE'S TWO

02:52PM   19   DISTINCT STEPS. THERE'S A STEP THAT HAPPENS AT THE VERY END OF

02:52PM   20   THE PARSING STEP. WHEN YOU HAVE RESOLVED FULLY WHAT IS THE

02:52PM   21   ULTIMATE PHRASE, THEN THERE'S A FINAL ASSIGNMENT OF COMMAND

02:52PM   22   ACTION VALUE.

02:52PM   23   BUT AS THE PARSING HAPPENS, THE PARSE TREE CONTAINS IN IT

02:52PM   24   ONE OR MORE COMMAND ACTION VALUES FOR EVERY SINGLE TOKEN. AND

02:52PM   25   IT'S DONE ON A TOKEN BASIS AND NOT ON AN ELEMENT BASIS. AND I

02:52PM 1   WILL ILLUSTRATE THAT TO YOU, YOUR HONOR.

02:52PM 2   AND THIS IS IMPORTANT ON SLIDE 5, THERE ARE THESE RULES

02:52PM 3   YOUR HONOR CALLED CONCAT RULES WHICH YOU SAW THAT WE ADDRESS IN

02:52PM 4   OUR OPPOSITION. CONCAT RULE IS A RULE THAT CONCATENATES

02:52PM 5   MULTIPLE TOKENS AND ASSIGNS A VALUE FUNCTION OR A COMMAND

02:53PM 6   ACTION VALUE.

02:53PM 7   CONCAT RULES ARE THE THINGS THAT DR. JEFFAY IDENTIFIED AS

02:53PM 8   BEING THE COMMAND ACTION VALUES THAT ARE BEING UPDATED ON A PER

02:53PM 9   TOKEN BASE. THESE ARE NOT SET TO ZERO. THERE'S A DISTINCT SET

02:53PM 10   OF CONCAT RULE VALUES THAT ARE BEING ASSOCIATED WITH EVERY

02:53PM 11   TOKEN BEING PROCESSED.

02:53PM 12   AND IN FACT, IT TURNS OUT THAT'S EXACTLY HOW THE FIGURE 2

02:53PM 13   EMBODIMENT IN THE PATENT WORKS AS WELL, AND WE WILL SHOW YOU

02:53PM 14   HOW THAT WORKS.

02:53PM 15   SO I HAVE A HELPFUL ANIMATION HERE, YOUR HONOR, TO SHOW YOU

02:53PM 16   WHAT WE ARE TALKING ABOUT.

02:53PM 17   THE COURT: THANK YOU.

02:53PM 18   MR. PAK: YOU HAVE SEEN THIS BEFORE.

02:53PM 19   WE HAVE THE USER PROVIDING AN INPUT AT THE TOP. THE USER

02:53PM 20   TYPES IN THE WORD SHOW. THE SHOW IS RECOGNIZED AS A TOKEN BY

02:53PM 21   THE CLI PARSER ON THE RIGHT.

02:53PM 22   SO WHAT HAPPENS IS YOU WILL SEE ON THE LEFT THERE'S A SHOW

02:53PM 23   AS A TOP PART OF THE HIERARCHY, SHOW IS ONE OF THE POSSIBLY

02:53PM 24   TOKENS.

02:53PM 25   ON THE RIGHT-HAND SIDE THAT, TOKEN SHOW INDIVIDUALLY IS

02:54PM   1   ASSOCIATED WITH MULTIPLE COMMAND ACTION VALUE, 1, 2, 3, 4, 5,

02:54PM   2   IN THIS EXAMPLE. AND AS YOUR HONOR'S CONSTRUCTION ALLOWS,

02:54PM   3   THAT'S POSSIBLE, THERE'S NO REASON WHY THE INVENTION IS LIMITED

02:54PM   4   TO A SINGLE ACTION VALUE.

02:54PM   5   YOU MOVE TO THE NEXT TOKEN OPENFLOW, THAT'S RECOGNIZED.

02:54PM   6   SO NOW WE MOVE DOWN INTO THE HIERARCHY. AND THIS TIME,

02:54PM   7   INSTEAD OF HAVING FIVE COMMAND ACTION VALUES, I HAVE THREE

02:54PM   8   COMMAND ACTION VALUES.

02:54PM   9   AND THEN EVENTUALLY YOU GET TO THE LAST WORD, FLOWS. AND

02:54PM   10   NOW WE HAVE FLOWS HAS COMMAND ACTION VALUE, AND THERE'S ONLY

02:54PM   11   ONE COMMAND ACTION VALUE AT THAT POINT.

02:54PM   12   AFTER YOU HAVE GONE THROUGH THIS PARSING, YOU CAN THINK OF

02:54PM   13   PARSING AS GOING THROUGH THE STEP WITH A LARGER NUMBER OF

02:54PM   14   POSSIBLE RULES THAT CAN MATCH. AS YOU RECEIVE AND VALIDATE

02:54PM   15   EACH TOKEN, YOU ARE NARROWING THAT LIST UNTIL YOU GET TO THE

02:54PM   16   END WHERE YOU HAVE A SINGLE COMMAND ACTION.

02:54PM   17   THE COURT: ALL RIGHT.

02:54PM   18   I GUESS THE QUESTION IS, AS THE WAY MR. SILBERT PRESENTED

02:55PM   19   IT, I BELIEVE, IS THAT IF THE LAST ELEMENT OF THE TREE, THE

02:55PM   20   WORD FLOWS WAS INVALID, SO THAT THIS PROCESS COULD NOT LIMIT TO

02:55PM   21   THE ONE COMMAND ACTION VALUE, HE'S ARGUING THAT IF IT ENDED IN

02:55PM   22   OPENFLOW UNDER THIS CONSTRUCTION, THERE WOULD BE NO VALUE

02:55PM   23   PROVIDED TO THE USER.

02:55PM   24   MR. PAK: AND YOUR HONOR, THAT'S ACTUALLY HOW THE

02:55PM   25   PATENT WORKS AS WELL, AND WE WILL SHOW YOU HOW THAT WORKS.

02:55PM 1   THE PATENT ACTUALLY SAYS, IF YOU HAVE AMBIGUITY, IF YOU

02:55PM 2   CAN'T RESOLVE -- AND THIS IS IN COLUMN 4 OF THE PATENT,

02:55PM 3   YOUR HONOR, AND -- COLUMN 4 OF THE PATENT STATES THAT AT

02:55PM 4   LINE 49, THE COMMAND KEY IS MANAGED TO A SELECT ONE OF THE

02:55PM 5   TRANSLATORS IN AN ATTEMPT TO PROVIDE A COMMAND TO THE

02:55PM 6   CORRESPONDING RESOURCE.

02:55PM 7   IF THE SELECTED RESOURCE DETERMINES THE COMMAND IS INVALID,

02:55PM 8   THE SELECTED RESOURCE AT THAT TIME MAY PROMPT THE USER FOR A

02:55PM 9   CORRECT COMMAND.

02:55PM 10   THIS IS IN THE PATENT. SO THE WAY THE PATENT WORKS IS

02:56PM 11   EXACTLY THE WAY ARISTA'S SYSTEM WORKS.

02:56PM 12   NOW THERE MAY BE CERTAIN SITUATIONS WHERE THERE'S NO

02:56PM 13   AMBIGUITY. IF I TYPE IN SHOW OPENFLOW, AND THERE'S NO OTHER

02:56PM 14   COMMAND SEQUENCE THAT BEGINS WITH SHOW OPENFLOW, THE SYSTEM

02:56PM 15   DOES, IN THE PATENT, WHAT'S CALLED A BEST MATCH.

02:56PM 16   AND THEN IT WILL EXECUTE SHOW OPENFLOW FLOWS, BECAUSE

02:56PM 17   THERE'S NO OTHER COMMAND THAT HAS SHOW OPENFLOW AS THE TWO

02:56PM 18   BEGINNING TOKENS. THAT'S CALLED THE BEST MATCH FUNCTIONALITY.

02:56PM 19   ARISTA DOES EXACTLY THE SAME THING. SO THIS IS WHY

02:56PM 20   ARISTA'S SYSTEM IS TOTALLY DIFFERENT THAN THE MARTINEZ-GUERRA

02:56PM 21   SYSTEM.

02:56PM 22   AND DR. JEFFAY ADDRESSES IN THE REPORT, ARISTA NEVER

02:56PM 23   CHALLENGES, AS PART OF THE SUMMARY JUDGEMENT MOTION, BUT THIS

02:56PM 24   IS IN HIS EXPERT REPORT, PAGE 57 AT THE TOP.

02:56PM 25   SEE JUST LIKE IOS, THIS IS ARISTA'S DOCUMENT, AND I WILL

02:56PM 1   JUST READ THIS YOUR HONOR, I DON'T HAVE THIS ONE ON THE SCREEN.

02:56PM 2   JUST LIKE IOS, EVEN DOWN TO THE BEHAVIOR OF TRUNCATED COMMANDS

02:56PM 3   BEING ACCEPTED SO LONG AS THEY ARE NOT AMBIGUOUS. FOR EXAMPLE,

02:57PM 4   WHILE IN CONFIGURATION MODE ENTERING JUST RO WILL NOT WORK

02:57PM 5   BECAUSE THE CLI INTERPRETER CAN NOT FIGURE OUT IF I MEANT ROUTE

02:57PM 6   MAP OR ROUTER. I CAN HOWEVER, FIND OUT WHAT COMMANDS ARE

02:57PM 7   AVAILABLE IN ONE OF TWO WAYS, ONE OF THOSE IS A QUESTION MARK

02:57PM 8   THAT MS. KATHLEEN SULLIVAN TALKED TO YOU ABOUT.

02:57PM 9   BUT IT GOES ON TO SAY, AS WITH IOS, TYPING THE TEXT EXIT OR

02:57PM 10   ITS NON AMBIGUOUS ABBREVIATION, EXECUTES THE COMMAND.

02:57PM 11   THIS IS THE BEST MATCHING FUNCTIONALITY. ARISTA HAS IT.

02:57PM 12   AND SO DOES THE PATENT. THAT'S VERY DIFFERENT THAN

02:57PM 13   MARTINEZ-GUERRA, WHICH WAS AN ERROR REPORTING FUNCTIONALITY,

02:57PM 14   YOUR HONOR.

02:57PM 15   THE REASON WHY THAT WAS DIFFERENT WAS THAT WAS NOT PART OF

02:57PM 16   THE PARSING FUNCTIONALITY, AND WE POINTED THAT OUT TO THE PTAB.

02:57PM 17   IT'S A SEPARATE FUNCTIONALITY, NOT PART OF PARSE TREE.

02:57PM 18   YOU ONLY WANT IT ONCE, WHICH IS AT THE END OF THE PROCESS,

02:57PM 19   AND IT DETERMINES WHETHER THE COMMAND IS VALID OR NOT, BUT IT

02:57PM 20   HAD NO ABILITY TO DO THIS KIND OF BEST MATCH FUNCTIONALITY THAT

02:58PM 21   EXISTS.

02:58PM 22   THE COURT: BUT IS IT DOING THE BEST MATCH IN A

02:58PM 23   DIFFERENT WAY THAN WHAT YOUR PATENT DESCRIBES, BECAUSE

02:58PM 24   OTHERWISE WE ARE JUST TALKING ABOUT AN IDEA.

02:58PM 25   MR. PAK: IT DOES IT EXACTLY THE SAME WAY,

02:58PM 1   YOUR HONOR.

02:58PM 2   SO THIS IS ON SLIDE 6.

02:58PM 3   WHAT HAPPENS AFTER YOU HAVE GONE THROUGH THE PARSING IS NOW

02:58PM 4   YOU HAVE GONE THROUGH ALL THE DIFFERENT CONTEXT VARIABLES AND

02:58PM 5   YOU GET TO THE END AND NOW THERE'S ONLY ONE LEFT. AND THERE'S

02:58PM 6   A TRANSLATION PROCESS THAT HAPPENS WHICH SAYS, I'M GOING TO

02:58PM 7   TAKE THE ENTIRE PHRASE SHOW OPENFLOW FLOWS, AND I'M GOING TO

02:58PM 8   MAP IT TO TRANSLATED TO A SINGLE PRESCRIBED COMMAND.

02:58PM 9   ALL THE QUESTIONS THAT YOU SAW FROM DR. JEFFAY WAS REALLY

02:58PM 10   ABOUT THIS. SO IF YOU LOOK AT THE LAST STEP, WHICH IS SHOW

02:58PM 11   OPENFLOW FLOWS. IT'S TRUE THAT THE COMMAND ACTION VALUE OR THE

02:58PM 12   PRESCRIBED COMMAND IS ASSOCIATED WITH THAT PHRASE IS THE LARGER

02:58PM 13   PHRASE.

02:58PM 14   BUT THAT'S NOT HIS CONTEXT STATE FUNCTIONALITY INFRINGEMENT

02:58PM 15   ANALYSIS. HIS INFRINGEMENT ANALYSIS IS WHAT HAPPENS BEFORE YOU

02:58PM 16   GET TO THAT POINT.

02:58PM 17   SO ALL OF THESE MAPPINGS WOULD SHOW TO FIVE COMMAND ACTION

02:59PM 18   VALUES DOWN TO OPENFLOW DOWN TO THREE, THOSE ARE ALL VALID,

02:59PM 19   NON0 COMMAND ACTION VALUES THAT ARE BEING ASSOCIATED BY TOKENS

02:59PM 20   EACH OF THE WAY.

02:59PM 21   AND AS YOUR HONOR FOUND CORRECTLY, IN ORDER TO CLARIFY THAT

02:59PM 22   EACH SCENARIO COMPONENT CAN HAVE MORE THAN ONE COMMAND ACTION

02:59PM 23   VALUE THE COURT CONSTRUES THE TERM AS FOLLOWS.

02:59PM 24   SO LET ME WALK YOU THROUGH FIGURE 2 BECAUSE THIS IS WHERE

02:59PM 25   THE RUBBER HITS THE ROAD IN TERMS OF YOUR QUESTIONING.

02:59PM 1   NOW YOUR HONOR CORRECTLY FOUND THIS IS NOT -- THE INVENTION

02:59PM 2   IS NOT LIMITED, BUT CLEARLY WE WANT TO MAKE SURE WHAT WE ARE

02:59PM 3   SAYING IS CONSISTENT WITH THIS EMBODIMENT.

02:59PM 4   IN THE FIGURE 2 EMBODIMENT, WE ARE GOING TO HAVE THREE

02:59PM 5   DIFFERENT WORDS INSTEAD OF SHOW. WE ARE GOING TO START WITH

02:59PM 6   WATCH, WHICH IS ONE OF THE EXAMPLES.

02:59PM 7   THE USER TYPES IN WATCH, GOES THROUGH THE CLI PARSING.

02:59PM 8   THAT LIGHTS UP ONE OF THE BOXES. TOKEN. AND CK VALUE. I GO

02:59PM 9   TO TCP, AND I TYPE THAT, AND LIGHTS UP A DIFFERENT BOX.

03:00PM 10   AND AGAIN, THIS PROCESS REPEATS ITSELF, CONNECTIONS, YOU

03:00PM 11   GET TO THE THIRD LEVEL.

03:00PM 12   BY THE WAY, THIS IS VERY IMPORTANT, THE ELEMENTS HERE ARE

03:00PM 13   WITH RESPECT TO, FOR EXAMPLE THE BOX IN THE MIDDLE, TCK62,

03:00PM 14   TCK74, THAT'S AN ELEMENT. THAT ELEMENT TELLS YOU WHICH OF

03:00PM 15   THESE POSSIBLE TOKENS YOU CAN MATCH.

03:00PM 16   THAT IS NOT WHAT MR. SILBERT SHOWED YOU WITH THE SHOW

03:00PM 17   OPENFLOW FLOWS. THAT IS NOT AN ELEMENT, THAT'S A HIERARCHY.

03:00PM 18   THAT IS THE SAME AS WATCH TCP CONNECTIONS.

03:00PM 19   THE COURT: YOU ARE SHOWING ME A HIERARCHY HERE.

03:00PM 20   MR. PAK: YES, ABSOLUTELY.

03:00PM 21   SO WHAT'S IMPORTANT TO REALIZE IS IF YOU LOOK CLOSELY AT

03:00PM 22   THIS SLIDE ON FIGURE 2, YOU WILL SEE THAT AT THE SAME LEVEL

03:00PM 23   HIERARCHY THERE IS THE TOKEN 6 THAT MAPS TO A WORD.

03:00PM 24   DO YOU NOTICE THERE'S THREE ACTUAL CK VALUES THAT ARE

03:01PM 25   ASSOCIATED. T6, CK2. T6, CK7. T6, CK11.

03:01PM 1   SO IN THE EMBODIMENT YOU HAVE THE SAME TOKEN AT THE SAME

03:01PM 2   LEVEL HIERARCHY ASSIGNED TO MULTIPLE COMMAND ACTION VALUES. SO

03:01PM 3   HOW WOULD THE SYSTEM IN THE PATENT KNOW WHICH OF THESE COMMAND

03:01PM 4   ACTION VALUES TO TRIGGER, BASED ON THE HISTORY, BASED ON THE

03:01PM 5   CONTEXT OF WHAT WAS PARSED BEFORE?

03:01PM 6   SO ACTUALLY, IF YOU LOOK AT T6 CK2, THAT IS NOT AN

03:01PM 7   ASSIGNMENT OF CK TO TOKEN 6, IT'S AN ASSIGNMENT OF THE COMMAND

03:01PM 8   ACTION VALUE 2 TO THE SEQUENCE T8, FOLLOWED BY T6. IT'S A

03:01PM 9   CONCATENATION OF TOKENS.

03:01PM 10   JUST LIKE IN ARISTA'S SYSTEM, SHOW OPENFLOW FLOWS, HAS A

03:01PM 11 COMMAND ACTION VALUE ASSOCIATED WITH IT. HERE THE SYSTEM HAS

03:01PM 12 T8 FOLLOWED BY T6 IS ASSIGNED THE COMMAND ACTION VALUE 3.

03:02PM 13   SIMILARLY, IF I LOOK AT THE MIDDLE SEQUENCE, T3, T3

03:02PM 14 FOLLOWED BY T6 IS ASSIGNED A DIFFERENT COMMAND ACTION VALUE 7.

03:02PM 15 T5 IS ASSIGNED THE COMMAND ACTION VALUE T6.

03:02PM 16   SO FIGURE 2 WORKS JUST LIKE ARISTA'S SYSTEM. IT HAS A

03:02PM 17 CONCATENATION OF TOKENS AND COMMAND ACTION VALUES THAT ARE

03:02PM 18 ASSOCIATED WITH IT THROUGH THE HIERARCHY.

03:02PM 19   IT MUST WORK THAT WAY BECAUSE WE DON'T WANT A SYSTEM THAT'S

03:02PM 20 LIKE A PARROT THAT LISTENS TO WORDS BUT DOESN'T UNDERSTAND

03:02PM 21 SENTENCES. WE DON'T WANT A SYSTEM THAT SAYS, I HEARD THE WORD

03:02PM 22 WATCH AND I'M GOING TO TAKE THE SAME ACTION REGARDLESS OF WHAT

03:02PM 23 CAME BEFORE IT OR WHAT COMES AFTER IT.

03:02PM 24   THE FIGURE 2 EMBODIMENT IN THE PATENT HAS A CONCATENATION

03:02PM 25 OF TOKENS IN A HIERARCHY. THIS IS DONE IN ORDER TO ENSURE THAT

03:02PM 1   YOU ARE PARSING THE ENTIRE PHRASE AND NOT JUST ONE WORD AT A

03:02PM 2   TIME AND ASSOCIATES IT WITH COMMAND ACTION VALUES AS YOU PARSE

03:02PM 3   IT.

03:02PM 4   THAT'S EXACTLY WHAT ARISTA DOES IN ITS THING, AND THEN AT

03:03PM 5   THE END AS YOU SAW, WHAT HAPPENS AFTER YOU GET TO THE END,

03:03PM 6   WATCH TCP CONNECTIONS, YOU DO A TRANSLATION. SO NOW YOU

03:03PM 7   RESOLVE TO THE FINAL VALUE.

03:03PM 8   AND THAT'S DESCRIBED IN COLUMN 4, LINE 19-37 OF THE '526

03:03PM 9   PATENT AND SAYS AH, YOU CHECK A TRANSLATION TABLE, THAT

03:03PM 10   SPECIFIES A SPECIFIC COMMAND FOR A SPECIFIC TRANSLATOR.

03:03PM 11   SO SIDE-BY-SIDE COMPARISON, YOUR HONOR, THIS IS SLIDE 10,

03:03PM 12   ON THE LEFT-HAND SIDE, WHAT DO WE HAVE? WE HAVE SHOW, OPENFLOW

03:03PM 13   FLOWS.

03:03PM 14   THIS IS NOT AN ELEMENT, YOUR HONOR, THIS IS A HIERARCHY.

03:03PM 15   SHOW APPEARS AT A HIGHER LEVEL OF THE HIERARCHY. OPENFLOW IS

03:03PM 16   THE NEXT ONE DOWN, FLOWS.

03:03PM 17   AND EACH OF THESE ARE ASSOCIATED WITH THEIR OWN SET OF

03:03PM 18   CONTEXT STATE VALUE RULES EACH OF WHICH CONTAINS ONE OR MORE

03:03PM 19   COMMANDS ACTION VALUES.

03:03PM 20   TO THE EXTENT NOW THEY ARE SAYING THERE HAS TO BE A UNIQUE

03:03PM 21   ASSIGNMENT, TOKEN VALUE TO A COMMAND ACTION VALUE, WE HAVE

03:03PM 22   ALREADY GONE THROUGH THAT IN MARKMAN STAGE, WE DON'T HAVE THAT

03:03PM 23   REQUIREMENT UNDER YOUR HONOR'S CONSTRUCTION.

03:04PM 24   ON THE RIGHT-HAND SIDE WE HAVE THE SAME THING. WATCH, TCP

03:04PM 25   CONNECTIONS. THAT'S A HIERARCHY. THAT HAS ASSOCIATED WITH IT

03:04PM 1   THREE DIFFERENT COMMAND KEY VALUES. NOW IN THE EMBODIMENT,

03:04PM 2   THAT HAPPENS TO BE THREE DIFFERENT VALUES, AND IN THE

03:04PM 3   EMBODIMENT THERE HAPPENS TO BE ONE COMMAND KEY TO ONE TOKEN.

03:04PM 4   BUT THAT REQUIREMENT IS NOT PRESENT IN YOUR HONOR'S

03:04PM 5   CONSTRUCTION. YOUR HONOR'S CONSTRUCTION DOES NOT REQUIRE

03:04PM 6   ONE-TO-ONE CORRESPONDENCE OR UNIQUE COMMAND KEY VALUES. AND

03:04PM 7   BOTH OF THESE SYSTEMS, AT THE END OF THE DAY, PERFORM A

03:04PM 8   TRANSLATION BETWEEN THE FINAL PHRASE TO THE PRESCRIBED COMMAND.

03:04PM 9   AND SO WHEN YOU LOOK AT DR. JEFFAY'S DEPOSITION, AND I ASK

03:04PM 10   YOUR HONOR IF YOUR TEAM COULD GO BACK AND TAKE A LOOK AT THE

03:04PM 11   WHOLE SEQUENCE, STARTING FROM PAGE 92.

03:04PM 12   IT'S A LONG DEPOSITION, BUT THERE WERE A NUMBER OF THINGS

03:04PM 13   THAT HE WAS ASKED ABOUT, AND A NUMBER OF THINGS HE WASN'T ASKED

03:04PM 14   ABOUT. HE WAS NOT ASKED HERE ABOUT THE CONTEXT STATE

03:04PM 15   FUNCTIONALITY THAT WE JUST TALKED ABOUT. THAT'S CLEAR ON THE

03:04PM 16   TOP OF THIS SLIDE AT PAGE 92.

03:04PM 17   HE WAS BEING ASKED, THAT VALUE FUNCTION THAT YOU ARE

03:05PM 18   TALKING ABOUT IS THE ONE THAT ULTIMATELY POINTS THE SYSTEM

03:05PM 19   TOWARDS THE PRESCRIBED COMMAND THAT GOES ALONG WITH THE SHOW

03:05PM 20   OPENFLOW FLOWS COMMAND.

03:05PM 21   GENERALLY YES.

03:05PM 22   SO THEN WHEN HE WAS ASKED LATER ON, DOES THE COMMAND ACTION

03:05PM 23   VALUE OR THE PRESCRIBED COMMAND FOR THAT ENTIRE PHRASE AT THE

03:05PM 24   VERY END OF THE PROCESS, IS THAT ASSOCIATED WITH ONE TOKEN OR

03:05PM 25   THE WHOLE PHRASE? AND HE RIGHTFULLY SAID, THAT'S ASSOCIATED

03:05PM   1   WITH THE ENTIRE PHRASE.

03:05PM   2   THAT'S EXACTLY WHAT THE PATENT DOES. WHEN YOU GET TO THE

03:05PM   3   END AND RECOGNIZE ALL THE WORDS, THE FULL PHRASE COMMAND ACTION

03:05PM   4   VALUE IS ASSOCIATED WITH A SINGLE ASSOCIATED COMMAND ACTION

03:05PM   5   VALUE.

03:05PM   6   BUT HE'S NOT TALKING ABOUT WHAT'S HAPPENING HERE OR WHAT'S

03:05PM   7   HAPPENING HERE IN THIS LINE OF QUESTIONING. BECAUSE THAT'S

03:05PM   8   CLEAR IN HIS EXPERT REPORT HE GOES THROUGH AS WE SHOWED YOU

03:05PM   9   STEP BY STEP LOOKING AT THE SOURCE CODE, HOW EVERY TIME YOU

03:05PM   10 UPDATE A TOKEN, THERE'S A CHANGE IN THE COMMAND ACTION VALUES

03:05PM   11 THAT ARE ASSOCIATED WITH IT, AND THAT'S DONE ON A TOKEN BASIS,

03:06PM   12 NOT ON AN ELEMENT BASIS.

03:06PM   13   THERE ARE A COUPLE OF THINGS THAT MR. SILBERT RAISED IN HIS

03:06PM   14 BRIEF. ONE, HE SAYS WELL, THERE'S THESE TOKEN RULES THAT ARE

03:06PM   15 SET TO ZERO AND SOMEHOW THAT CREATES A NONINFRINGEMENT PROBLEM.

03:06PM   16   WE ARE NOT RELYING ON THE NON ZERO OR EVEN THE VALUE

03:06PM   17 FUNCTIONS ARE TOKEN RULES WE ARE RELYING ON THESE CONCATENATED

03:06PM   18 RULE VALUES. THERE'S ABSOLUTELY NO AGREEMENT THAT THEY ARE SET

03:06PM   19 TO ZERO, THAT THEY ARE ASSOCIATED WITH EACH OF THE TOKENS THAT

03:06PM   20 ARE COMING IN.

03:06PM   21   SO THIS WHOLE TESTIMONY AND ALL OF THIS IS A RED HERRING.

03:06PM   22 IT DOESN'T GO TO THE MAJOR INFRINGEMENT THEORY WHICH HAS TO DO

03:06PM   23 WITH CONTEXT STATE VARIABLES RELYING ON CONCATENATED RULES.

03:06PM   24 AND AS WE SAW IN FIGURE 2, THAT'S EXACTLY HOW THE ARISTA SYSTEM

03:06PM   25 WORKS. THE ONLY WAY YOU CAN DISTINGUISH BETWEEN THESE MULTIPLE

03:06PM 1   CK VALUES FOR THE SAME TOKEN IS TO KNOW THE CONCATENATIONS OF

03:06PM 2   THE TOKENS THAT APPEAR BEFORE IT.

03:06PM 3   AND FINALLY, YOUR HONOR, THIS ARGUMENT AND I THINK

03:06PM 4   MR. SILBERT SHOWED YOU THIS SLIDE, THIS IS SLIDE 17, IN HIS

03:07PM 5   PRESENTATION WHERE HE HAD SHOW OPENFLOW AND FLOWS AND HE SAID

03:07PM 6   WELL, THAT'S AN ELEMENT.

03:07PM 7   THAT'S NOT AN ELEMENT, YOUR HONOR. THIS IS A HIERARCHY.

03:07PM 8   THE ELEMENT EXISTS AT THE SAME LEVEL. WHAT THIS REALLY SHOWS

03:07PM 9   IS A HIERARCHY JUST LIKE THE PATENT. SHOW IS AT THE TOP,

03:07PM 10   OPENFLOW IS AT THE MIDDLE. FLOWS IS AT THE BOTTOM OF THAT

03:07PM 11   HIERARCHY.

03:07PM 12   AND AT EACH LEVEL ALTHOUGH HE SHOWED YOU THE CK THREE VALUE

03:07PM 13   AT THE END, WHAT'S HAPPENING IN THIS SYSTEM IS THAT AT EVERY

03:07PM 14   LEVEL, THERE WILL BE MULTIPLE CK VALUES THAT ARE ASSOCIATED

03:07PM 15   WITH EACH OF THESE TOKENS. AND OF COURSE, IT'S TRUE THAT BY

03:07PM 16   THE TIME YOU GET TO THE END, YOU FILTERED DOWN TO THE LAST

03:07PM 17   VALUES CK THREE.

03:07PM 18   SO -- AND DR. JEFFAY IS SAYING THIS OVER AND OVER AGAIN IN

03:07PM 19   HIS REPORT, THEY CRITICIZE US FOR CITING 73 PARAGRAPHS IN HIS

03:07PM 20   REPORT, BUT IT WAS EXTENSIVE ANALYSIS, THERE'S A LOT OF SOURCE

03:07PM 21   CODE BEHIND THIS, HE'S RELYING ON 30(B)(6) TESTIMONY AND

03:08PM 22   DRAWINGS BY MR. SWEENEY.

03:08PM 23   THIS ALL COMES DOWN TO, YOUR HONOR, THE BATTLE OF THE

03:08PM 24   EXPERTS. WE HAVE DR. JEFFAY WHO SAYS CLEARLY THAT THE ACCUSED

03:08PM 25   FUNCTIONALITY HERE, THE CONTEXT DOT STATE FUNCTIONALITY

03:08PM 1   INFRINGES UNDER YOUR HONOR'S CONSTRUCTION.

03:08PM 2   THEIR EXPERT DISAGREES, NOT FOR THE REASONS YOU HEARD

03:08PM 3   ABOUT, FOR OTHER REASONS. THIS IS A CLASSIC BATTLE OF THE

03:08PM 4   EXPERTS THAT HAVE BEEN PERMITTED TO GO TO THE JURY.

03:08PM 5   NOW, EVERYTHING WE HEARD TODAY IS REALLY, IN MY MIND,

03:08PM 6   FOCUSED ON PERIPHERAL ASPECTS OF DR. JEFFAY'S OPINIONS. BUT

03:08PM 7   WHEN YOU BOIL IT DOWN TO WHAT DR. JEFFAY SAYS WITH THESE

03:08PM 8   CONTEXT STATE VARIABLES CHANGING, BEING ASSOCIATED TOKEN BY

03:08PM 9   TOKEN, THERE'S ABSOLUTELY NO QUESTION WE PUT TOGETHER THE

03:08PM 10   INFRINGEMENT THEORY THAT SURVIVES UNDER YOUR HONOR'S COURT

03:08PM 11   CONSTRUCTION.

03:08PM 12   WE ARE NOT ASKING YOUR HONOR TODAY FOR YOUR HONOR TO

03:08PM 13   REINTERPRET OR CHANGE THE COURT'S CONSTRUCTION, ALL WE ARE

03:08PM 14   POINTING OUT IS THERE'S A VALID THEORY THAT THEY NEVER ADDRESS

03:08PM 15   IN THE OPENING PAPERS, WE NEED TO DEAL WITH THIS AT TRIAL AND

03:08PM 16   NOT ON SUMMARY JUDGEMENT.

03:08PM 17   THE COURT: ALL RIGHT.

03:08PM 18   MR. PAK: THANK YOU.

03:08PM 19   THE COURT: ALL RIGHT.

03:08PM 20   MR. SILBERT, I'M GOING TO LET YOU WRAP IT UP FOR ME.

03:09PM 21   MR. SILBERT: I THINK I CAN CLARIFY, AND I DON'T

03:09PM 22   THINK THIS ARGUMENT SHOULD ENTERTAIN THE COURT VERY LONG.

03:09PM 23   THIS IS WHAT MR. PAK IS SAYING, AND THE TERMINOLOGY CAN BE

03:09PM 24   CONFUSING. BUT CONTEXT DOT STATE, ALL IT DOES IS IT TRACKS

03:09PM 25   WHAT WORDS HAVE ALREADY BEEN ENTERED AND WHAT TERMS COULD

03:09PM   1   LEGALLY FOLLOW.

03:09PM   2   SO IF YOU START WITH SHOW, THEN CONTEXT DOT STATE IS SAYING

03:09PM   3   IF SHOW IS THE FIRST WORD, HERE ARE THE WORDS THAT COULD

03:09PM   4   LEGALLY FOLLOW SHOW. SO I WILL THINK ABOUT THOSE. THEN IF THE

03:09PM   5   NEXT WORD IS OPENFLOW, THEN IT SAYS, WELL, NOW YOU HAVE

03:09PM   6   NARROWED IT DOWN FURTHER, AND HERE ARE THE TERMS THAT CAN

03:09PM   7   LEGALLY FOLLOW OPENFLOW, SO I WILL THINK ABOUT THOSE.

03:09PM   8   WHAT THEY ARE TRYING TO DO HERE IS BECAUSE CONTEXT DOT

03:09PM   9   STATE IS LIMITING WHAT THEY SAY ARE THE NUMBER OF POSSIBLE

03:09PM   10 ALTERNATIVES, WHATEVER COMMAND ACTION VALUE YOU GET TO AT THE

03:09PM   11 END, THAT'S A COMMAND ACTION VALUE FOR EACH ONE OF THE WORDS

03:10PM   12 ALONG THE WAY.

03:10PM   13   SO IF WE LOOK HERE AT THIS BRANCH OF THE TREE, THEY ARE

03:10PM   14 SAYING TOKEN 6, BECAUSE THAT COULD LEAD TO ULTIMATELY DOWN TO

03:10PM   15 TOKEN 1, SO THERE'S TCP, AND THEN IT COULD BE CONNECTION AFTER

03:10PM   16 THAT AND THEN TO FOUR AFTER THAT, THEY ARE SAYING EACH ONE OF

03:10PM   17 THESE COMMAND KEYS HERE, 12 AND 13 AT THESE SUBSEQUENT NODES

03:10PM   18 DOWN HERE, THESE ARE ALSO THEY ARE SAYING ASSOCIATED WITH SIX.

03:10PM   19 THAT'S NOT WHAT THE PATENT SAYS. 6 HAS ITS OWN COMMAND KEY

03:10PM   20 HERE WHICH IS 11.

03:10PM   21   SO I KNOW THIS IS A LITTLE CONFUSING, BUT WHAT THEY ARE

03:10PM   22 TRYING TO SAY, BECAUSE IN REALITY THERE IS NO COMMAND KEY

03:10PM   23 ASSOCIATED WITH EACH PARTICULAR TOKEN IN ARISTA'S SYSTEM.

03:10PM   24   SO THIS IS WHAT THEY HAVE COME UP WITH. THEY SAID THE

03:10PM   25 CONTEXT DOT STATE VARIABLE DEFINES WHERE YOU MIGHT GO AFTER

03:11PM   1   THAT. AND IF YOU GOT TO -- IT'S SAYING YOU MIGHT END UP GOING

03:11PM   2   DOWN THIS PATH TO GET TO ONE AND THEN TO FOUR. AND IF YOU DID,

03:11PM   3   YOU WOULD HAVE COMMAND KEY 13. SO THEY ARE SAYING NOW YOU

03:11PM   4   SHOULD JUST TREAT COMMAND KEY 13 AS THOUGH IT WERE ASSOCIATED

03:11PM   5   WITH SIX.

03:11PM   6   WHICH IS NOT WHAT THE PATENT IS SHOWING HERE. SIX HAS ITS

03:11PM   7   OWN COMMAND KEY 11. THEN IF YOU GO DOWN TO ONE IT HAS A

03:11PM   8   DIFFERENT ONE AND IT HAS A DIFFERENT ONE.

03:11PM   9   SO IT'S NOT A BATTLE OF THE EXPERTS IN ANY SENSE. THERE'S

03:11PM   10   NO TERRIBLE DISPUTE ABOUT WHAT'S HAPPENING. IT IS A DIFFERENT

03:11PM   11   SYSTEM THAN WHAT YOUR HONOR DESCRIBED IN YOUR HONOR'S CLAIM

03:11PM   12   CONSTRUCTION, WHAT THE PATENT DESCRIBES.

03:11PM   13   I DO WANT TO SAY, AND I KNOW YOUR TIME IS TIGHT, BUT I

03:11PM   14   WOULD REFER THE COURT TO COLUMN 4, LINES 37 THROUGH 54 OF THE

03:11PM   15   '526 PATENT WHICH ABSOLUTELY TALKS ABOUT THE FACT THAT IF YOU

03:11PM   16   HAVE A PARTIALLY VALID COMMAND, IT CAN STILL BE EXECUTED

03:11PM   17   BECAUSE THERE'S A COMMAND ACTION VALUE, IT USES THE EXAMPLE GET

03:11PM   18   UPD CONNECTIONS, UPD ISN'T A VALID TERM THAT CAN FOLLOW GET.

03:12PM   19   THE COURT: AND YOU ARE SAYING ARISTA'S DOES NOT.

03:12PM   20   MR. SILBERT: IT DOESN'T DO THAT.

03:12PM   21   THE COURT: SO MR. PAK SAID JUST THE OPPOSITE.

03:12PM   22   AND HE'S SUGGESTING THAT DR. JEFFAY OPINES THAT SUCH THAT

03:12PM   23   THIS IS A DISPUTED ISSUE OF FACT.

03:12PM   24   MR. SILBERT: RESPECTFULLY, I DON'T BELIEVE THAT'S

03:12PM   25   WHAT HE'S SAYING.

03:12PM 1   THE COURT: SO HOW DO I GET THROUGH THIS? WHERE ARE

03:12PM 2 YOU GOING TO SHOW ME IN DR. JEFFAY'S DEPOSITION OR REPORT THAT

03:12PM 3 THAT'S NOT WHAT HE'S SAYING?

03:12PM 4   MR. SILBERT: IT'S RIGHT HERE. AND HE DOESN'T SAY

03:12PM 5 THAT THE ARISTA SYSTEM CAN EXECUTE PARTIALLY VALID COMMANDS.

03:12PM 6   WHAT MR. PAK SAID IS THAT EVEN THE '526 PATENT SAYS THAT IF

03:12PM 7 THERE'S AMBIGUITY, IT MIGHT ASK THE USER FOR MORE INFORMATION.

03:12PM 8   SO SOMETIMES IT DOESN'T ALWAYS EXECUTE PARTIALLY VALID

03:12PM 9 COMMANDS EITHER. BUT THE PATENT IS VERY CLEAR IN SAYING THAT

03:12PM 10 IT CAN

03:12PM 11   THE COURT: OKAY. SO I UNDERSTAND THE PATENT. NOW I

03:12PM 12 NEED TO UNDERSTAND WHETHER ARISTA HAS THE SAME FUNCTIONALITY

03:13PM 13 AND I NEED TO BE SURE THAT DR. JEFFAY AGREES THAT IT DOES --

03:13PM 14 THAT ARISTA DOES NOT HAVE THAT FUNCTIONALITY.

03:13PM 15   MR. SILBERT: YES. IF I COULD JUST MAKE THE SLIDES

03:13PM 16 ADVANCE. IT'S HERE AT HIS DEPOSITION AT PAGE --

03:13PM 17   THE COURT: SO NOW WE ARE BACK TO TALKING ABOUT

03:13PM 18 ELEMENTS AND MR. PAK WAS TELLING ME WE ARE NOT TALKING ABOUT

03:13PM 19 ELEMENTS, WE ARE TALKING ABOUT A HIERARCHY.

03:13PM 20   MR. SILBERT: OH, SORRY. THIS IS THE -- BY THE WAY,

03:13PM 21 WE CALLED THIS AN ELEMENT BECAUSE THAT'S WHAT DR. JEFFAY CALLED

03:13PM 22 IT.

03:13PM 23   THE COURT: WELL, MR. PAK WAS TELLING ME THAT HE WAS

03:13PM 24 TALKING ABOUT SOMETHING DIFFERENT.

03:13PM 25   MR. SILBERT: DON'T THINK SO, BUT FAIR ENOUGH.

03:13PM   1   THE COURT: I DON'T KNOW, I'M JUST PARROTING ACTUALLY

03:13PM   2   BACK WHAT I HEARD MR. PAK SAY.

03:13PM   3   MR. SILBERT: I DON'T THINK IT MATTERS ONE WAY OR THE

03:13PM   4   OTHER.

03:13PM   5   I WAS ON THE WRONG SLIDE, I APOLOGIZE, YOUR HONOR. IT'S

03:13PM   6   PAGE 105, LINES 13 THROUGH 20. HE'S ASKED IF THE USER JUST

03:13PM   7   TYPES SHOW AND HITS ENTER DO YOU KNOW WHETHER ANY PRESCRIBED

03:13PM   8   COMMAND WOULD GET EXECUTED? HE SAYS NO, I DON'T BELIEVE A

03:13PM   9   PRESCRIBED COMMAND WOULD GET EXECUTED.

03:14PM   10   THERE'S NO DISPUTE, HE CAN'T POINT YOU ANYWHERE IN THOSE 72

03:14PM   11   PARAGRAPHS OR ANYWHERE ELSEWHERE DR. JEFFAY SAYS THAT IF YOU

03:14PM   12   DON'T GET, YOU CANNOT GET TO THE END OF A COMPLETE VALID

03:14PM   13   COMMAND AND STILL INVOKE SOME PRESCRIBED COMMAND IN THE SYSTEM.

03:14PM   14   IT DOESN'T WORK THAT WAY IN ARISTA'S SYSTEM. THERE'S NO

03:14PM   15   DISPUTE ABOUT THAT, AND IT DOESN'T BECAUSE EACH WORD DOESN'T

03:14PM   16   HAVE ITS OWN COMMAND ACTION VALUE.

03:14PM   17   AND THIS ARGUMENT THEY ARE MAKING ABOUT CONTEXT DOT STATE,

03:14PM   18   WHICH IS NOT SOME SEPARATE THEORY, HE WASN'T ASKED IF YOU

03:14PM   19   EXCLUDE YOUR CONTEXT DOT STATE OPINION, IS THERE A COMMAND

03:14PM   20   ACTION VALUE. HE WAS ASKED, IN THE WORDS OF THE PATENT, DOES

03:14PM   21   EACH GENERIC COMMAND COMPONENT HAVE AN ASSOCIATED COMMAND

03:14PM   22   ACTION VALUE.

03:14PM   23   IT'S JUST THE WORDS OF THE CLAIM. AND HE SAYS, WELL, NO,

03:14PM   24   THE ELEMENT HAS A COMMAND ACTION VALUE. AND YOU CAN THINK OF

03:14PM   25   IT AS BEING ASSOCIATED WITH THE LAST WORD, SHOW. HE WASN'T

03:14PM 1   ASKED TO EXCLUDE ANYTHING OR I'M ONLY FOCUSSING ON THIS PART OF

03:14PM 2   YOUR OPINION AND NOT THE OTHER PART OF YOUR OPINION.

03:15PM 3   THE COURT: SO I FEEL LIKE I'M GETTING TWO DIFFERENT

03:15PM 4   DEFINITIONS OF ELEMENT.

03:15PM 5   SO MR. PAK MADE IT VERY CLEAR THAT HAS VIEW THE ELEMENT WAS

03:15PM 6   AT THE SAME LEVEL AND HORIZONTAL AND THAT THE HIERARCHY WAS THE

03:15PM 7   VERTICAL PART, AND SO DO YOU DISAGREE WITH THAT?

03:15PM 8   MR. SILBERT: I THINK THEY COULD ARGUE IT EITHER WAY.

03:15PM 9   WE WERE USING THE VERSION THAT DR. JEFFAY, IN FACT, ARGUED

03:15PM 10   WHICH IS THAT SHOW OPENFLOW FLOWS IS ITSELF AN ELEMENT.

03:15PM 11   BUT YOU COULD LOOK AT THE ELEMENT VERTICALLY AS WELL. IT

03:15PM 12   DOESN'T MATTER.

03:15PM 13   THE COURT: SO YOU ARE USING THE WORD ELEMENT TO

03:15PM 14   DEFINE THE VERB TO -- TO DESCRIBE THIS VERTICAL HIERARCHY.

03:15PM 15   MR. SILBERT: I'M USING THE WORD ELEMENT TO DESCRIBE

03:15PM 16   NODE IN THE TREE. EACH NODE IN THE TREE IS AN ELEMENT. NOW

03:15PM 17   THE NODES, YOU COULD GO DOWN THE NODES THIS WAY TO GET TO THE

03:15PM 18   END.

03:15PM 19   THE COURT: SURE. BECAUSE THAT'S WHAT WE ARE DOING

03:15PM 20   HERE, THAT'S WHAT WE ARE LOOKING AT HERE IS THE PROGRESSION

03:15PM 21   DOWN THROUGH THE NODES.

03:15PM 22   MR. SILBERT: THAT'S WHAT'S SHOWN IN FIGURE 2, IT

03:15PM 23   DOES PROGRESS DOWN. IT'S NOT WHAT DR. JEFFAY ARGUED WAS AN

03:16PM 24   ELEMENT.

03:16PM 25   BUT MY POINT IS I DON'T THINK THE COURT NEEDS TO GET HUNG

03:16PM 1   UP ON THAT BECAUSE, EITHER WAY, UNDER YOUR HONOR'S CLAIM

03:16PM 2   CONSTRUCTION, EACH WORD HAS TO HAVE ITS OWN COMMAND ACTION

03:16PM 3   VALUE. WHETHER IT'S GOING DOWN OR ACROSS, IT HAS TO HAVE ONE,

03:16PM 4   AND IT DOESN'T HAVE ONE.

03:16PM 5   THE COURT: OKAY.

03:16PM 6   OKAY. THANK YOU.

03:16PM 7   MR. PAK: YOUR HONOR, IF I COULD JUST HAVE TWO

03:16PM 8   MINUTES.

03:16PM 9   THE COURT: I SUPPOSE.

03:16PM 10   MR. PAK: WHAT YOU JUST HEARD FROM MR. SILBERT IS A

03:16PM 11   ONE-TO-ONE ARGUMENT.

03:16PM 12   WHEN YOU GO BACK TO SLIDE FIVE IN HIS PRESENTATION, IF I

03:16PM 13   MAY, YOUR HONOR WHAT HE'S SAYING IS THAT THIS IS A -- 614 ON

03:16PM 14   THE RIGHT-HAND SIDE IS A HIERARCHY, SINGS AT THE TOP, 1, AND 4,

03:16PM 15   WHAT HE'S TELLING YOU IS I CANNOT HAVE A SYSTEM WHERE CK IS THE

03:16PM 16   SAME FOR T6, T1 AND T4.

03:17PM 17   BECAUSE IN ARISTA'S SYSTEM, CK WOULD BE 11, 11, 11. AND SO

03:17PM 18   HE'S SAYING THAT YOU HAVE TO HAVE A DIFFERENT CK VALUE JUST

03:17PM 19   BECAUSE YOU HAPPEN TO BE AT

03:17PM 20   THE COURT: I DIDN'T HEAR HIM SAY DIFFERENT, HE'S

03:17PM 21   SAYING YOU HAVE TO HAVE A VALUE.

03:17PM 22   MR. PAK: HE DOES.

03:17PM 23   AT THAT LEVEL, THERE'S ABSOLUTELY NO QUESTION. IN DR.

03:17PM 24   JEFFAY'S ANALYSIS ON THE CONTEXT STATE VARIABLES, EVERY LEVEL

03:17PM 25   OF THIS HIERARCHY WITH EVERY TOKEN, NOT ON AN ELEMENT BASIS.

03:17PM 1   ON EVERY TOKEN THERE WILL BE A DISTINCT SET OF VALUES, BECAUSE

03:17PM 2   AS YOU MOVE DOWN THE HIERARCHY, IT'S GOING TO GO FROM FIVE

03:17PM 3   COMMAND ACTION VALUES DOWN TO 4, 3, 2, 1.

03:17PM 4   SO IF I LOOK AT THE BOTTOM OF THE HIERARCHY T4, IT WILL

03:17PM 5   CONTAIN ONE COMMAND ACTION VALUE. THE LEVEL ABOVE IT WILL

03:17PM 6   CONTAIN THREE COMMAND ACTION VALUES, ABOVE IT WILL BE FIVE.

03:17PM 7   SO THIS IDEA THAT SOMEHOW THERE'S A SAME COMMAND ACTION

03:17PM 8   VALUE THAT'S ASSIGNED ON A PER ELEMENT BASIS, WHETHER YOU LOOK

03:17PM 9   AT IT HORIZONTALLY, VERTICALLY, IS JUST SIMPLY WRONG.

03:18PM 10   AND THE LAST THING IS ON THIS IMPORTANT QUESTION, THE AUTO

03:18PM 11 COMPLETE, YOUR HONOR, DR. JEFFAY PROVIDES HIS OPINIONS ON

03:18PM 12 PAGE 56 TO 57 OF HIS EXPERT REPORT WHERE IT DESCRIBES EXACTLY

03:18PM 13 THIS FUNCTIONALITY OF LOOKING AT PARTIAL MATCHES OF PARTIAL

03:18PM 14 INPUTS AND SAYING ARISTA -- AND THIS IS TOUTED IN THEIR OWN

03:18PM 15 USER MANUALS AS BEING JUST LIKE THE CISCO IOS. I TYPE IN A

03:18PM 16 PARTIAL VALID INPUT, IT EXECUTES THE COMMAND AS LONG AS IT'S UN

03:18PM 17 AMBIGUOUS. SO THERE'S NO DISPUTE ABOUT THAT.

03:18PM 18   SO I THINK AT THE END OF THE DAY THERE ARE THINGS BEING

03:18PM 19 DISPUTED, BUT AGAIN, THIS IS WHY WE HAVE TRIALS, THEY HAVE A

03:18PM 20 GREAT CROSS-EXAMINATION POINT. IT SHOULD BE ARGUED IN FRONT OF

03:18PM 21 A JURY, BUT ON THIS RECORD YOUR HONOR, I TRULY BELIEVE THIS IS

03:18PM 22 SOMETHING THAT SHOULD BE LEFT TO THE JURY.

03:18PM 23   THANK YOU.

03:18PM 24   THE COURT: OKAY. THANK YOU ALL FOR COMING BACK. I

03:18PM 25 APPRECIATE IT. HOPEFULLY NOBODY HAS TO TRAVEL. YOU DON'T

03:18PM 1   TRAVEL FROM OUT OF TOWN, MR. SILBERT, YOU'RE LOCAL AS WELL --

03:18PM 2   OKAY. GOOD.

03:18PM 3   WELL, THIS IS HELPFUL. THANK YOU. AND I WILL WORK ON

03:18PM 4   EVERYTHING THAT YOU GAVE ME. THIS PROBABLY WILL BE THE EASIEST

03:19PM 5   PART OF WHAT I HAD LAST WEEK.

03:19PM 6   ALL RIGHT. I THINK THAT'S EVERYTHING. THANK YOU.

03:19PM 7   (WHEREUPON, THE PROCEEDINGS IN THIS MATTER WERE CONCLUDED.)

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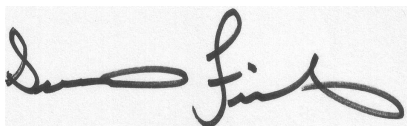
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4   **CERTIFICATE OF REPORTER**

5

6

7

8   I, THE UNDERSIGNED OFFICIAL COURT

9   REPORTER OF THE UNITED STATES DISTRICT COURT FOR

10   THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH

11   FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY

12   CERTIFY:

13   THAT THE FOREGOING TRANSCRIPT,

14   CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND

15   CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS

16   SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS

17   HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED

18   TRANSCRIPTION TO THE BEST OF MY ABILITY.

19

20

21

22

23

24   _____
     SUMMER A. FISHER, CSR, CRR
25   CERTIFICATE NUMBER 13185   DATED: 8/10/16